

**REPORT OF THE JUDICIAL RESOURCES COMMISSION
TO THE SUPREME COURT
AND GENERAL ASSEMBLY
CY 1995**

PREPARED PURSUANT TO §476.415, RSMO

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Since issuing its first report in 1991, the Judicial Resources Commission has met annually to review the state of the judiciary and make recommendations as needed. To prepare this report for CY 1995, the Commission reviewed the CY 1994 report, compared the issues and obstacles outlined there with progress made in CY 1995, and examined several emerging issues facing the courts. Circuit court presiding judges were asked to review the topics to be covered. The Commission concluded that, despite some progress, major problems--a lack of full funding for senior judges, inadequate courthouse facilities, unfunded legislative mandates, inequitable allocation of judges, and difficulty assembling juries--remain. The following report summarizes those findings, and discusses several new concerns.

SENIOR JUDGES

Section 476.682, RSMo 1994 provides the statutory basis for compensating senior judges the difference between their judicial retirement benefit and the salary of the office for those days they sit as a senior judge pursuant to Supreme Court order. This is a means of providing additional days of judge time, where needed, for a fraction of the cost of a permanent judge. Senior judges have made a substantial contribution toward keeping dockets current, and have enabled many circuits to make significant strides toward meeting the time standards recommended by the Judicial Critical Issues Committee and established by Administrative Rule 17.

In FY 95, 39 retired judges accepted assignments to serve as senior judges for a total of 2020 days, or 404 weeks, of judicial service. Based on the statutory standard of 235 days equaling one year's service, senior judges provided up to nine judgeships in FY 95. In addition, senior judges were assigned to 134 individual cases that were, for the most part, multi-day jury trials or complex matters. However, because appropriations have been inadequate, they are not being fully compensated for their time.

For FY 95, the \$219,307 appropriated was sufficient to pay judges at only 71.6% of the time billed. Currently, \$283,079 is appropriated for the payment of senior judges. A core transfer of \$125,000 from the circuit court E & E account is being made to reflect the increased use of senior judges in metropolitan courts and less dependence on transferred

judges, and a request is again included in the FY 1997 budget to fully fund these judges. The Commission acknowledges the governor's continued efforts to increase the percentage of compensation; however, it believes that the failure to fully compensate senior judges for their service is a serious inequity that should be corrected without further delay.

The Commission recommends that the state appropriate sufficient money to fully compensate senior judges for their service.

At present, official court reporters frequently cannot be freed from regular assignments to preserve lengthy or complex trials conducted by senior judges, requiring them to rely on sound recording. As a result, litigants willing to use a senior judge who wish to have a court reporter are required to pay for the related costs themselves. This is unfair, since other litigants who have similar cases heard by active circuit judges are not required to assume these costs.

The Commission recommends that adequate support services be provided for senior judges, including court reporters for lengthy or complex trials.

JUDICIAL RESOURCE ALLOCATION

One of the problems facing the judicial system is the unequal allocation of judgeships as they relate to population and caseload. The constitutional provision (Article V Section 16) requiring an associate circuit judgeship in each county has resulted in an inequitable distribution of judicial resources. To compensate, associate circuit judges in many counties dispose a significant portion of the circuit level cases, thereby alleviating crowded circuit dockets. (In FY95, associate circuit judges disposed 44% of the circuit level cases.) Additionally, the Supreme Court assigns "transfer" (active judges from non-metropolitan courts) and senior judges to those courts unable to handle their caseload expeditiously, to replace a judge who is ill, or where a change of judge has been requested. In FY95, the Office of State Courts Administrator coordinated 1,901 judicial transfers, the vast majority of which were associate circuit judges. In FY95, the senior judges served a total of 2,020 days in courts around Missouri. All this is being done at significant cost. As noted above, the state appropriated \$219,307 for senior judges in FY95. Since FY89, the state has appropriated a total of \$742,857 for senior judge compensation. In addition, the state reimbursed thousands of dollars in travel costs for both senior and transfer judges.

The Commission recognizes that this is a complex issue and that there are many factors that need to be considered.

The Commission recommends that the issue of allocation of judges should be jointly addressed by the judicial, executive and legislative branches at the earliest possible time so that caseloads among judges will be brought into better balance, and that caseloads be reviewed on a regular basis to insure that judicial resources continue to be properly allocated.

CLERICAL TRAINING

The FY 96 increase in clerical staff, 34 FTE funded by general revenue and 60.3 FTE funded with federal child support reimbursement monies, has gone a long way to alleviate the problems caused by a rapidly growing workload combined with years of little or no increase. However, training to provide clerks with the skills they need to deal with the ever-changing responsibilities of their positions has been inadequate. The failure to provide adequate opportunities for training and professional development has left clerks with insufficient skills to perform competently in today's modern court, to most effectively assist pro se litigants, and to achieve the timely disposition of each case that comes before the court.

Each year, clerks are required to assume more clerical and support responsibilities. For example, the number of adult abuse cases filed has grown significantly since legislation was first enacted in 1980, to almost 32,000 in FY 1995. These cases require extensive assistance by the clerk, often consuming more than an hour of time per case to help the person with this pro se filing. This assistance requires knowledge and skill on a professional level, but clerks receive little training to guide them.

To alleviate this situation, the Circuit Court Budget Committee has submitted a budget request to create a revolving fund to handle local court monies intended for clerk training expenses and has requested funding for three positions to create and administer a Training Academy for clerks. The objectives of this project are to improve courts' responsiveness to the public by improving clerks' understanding of technological capabilities and their use of technological resources, to improve their understanding of the legal process, rules, and recommended model procedures, and to teach them how to handle each step of the process efficiently and accurately. Training will enhance clerks' knowledge of new laws that affect court activities, improve the delivery of court information and services, increase collections and interest earnings and limit losses due to theft and mishandling of finances, and improve the functioning of the court through better coordination and communication with local and state agencies.

The Commission recommends that the state provide an adequate number of support personnel to perform necessary functions essential to the operation of the courts, and that training be provided to all employees to assist them to better perform their jobs and serve the public.

UNFUNDDED LEGISLATION

Legislation which is passed without appropriations to handle the increased workload continues to cause difficulties for the judiciary. In the last ten years, budget requests have been made for 42 FTE based on fiscal notes on new legislation. These requests have gone unfunded despite statutory provisions expanding clerks' duties. When these additional duties must be absorbed by a workforce that was unable to keep up with previous demands, incidents of error, decreased employee morale, and turnover occur.

The Commission recommends that the legislature consider the "ripple effect" of the legislation it passes to avoid creating a workload that cannot be handled by present staff, and that it remains committed to funding FTE contained in fiscal notes after legislation is passed.

STATE PUBLIC DEFENDER COMMISSION

For Fiscal years 1995 and 1996, the Missouri State Public Defender System received funding increases to improve attorney salaries. This funding was instrumental in helping reduce the historically high turnover of attorneys that plagued this Department. Today, public defender turnover is down and retention is up. The experience level of Missouri's public defenders is higher and appears to be improving. Now that the Missouri State Public Defender System has more experienced public defenders, the State Public Defender Commission is focusing its efforts on seeing these defenders have the resources to become the most effective, efficient experienced public defenders possible.

New legislation, such as the Juvenile Crime Bill (HB 174), Interlock Devices (SB 102), Corrections (HB 424), and Drive-by Shootings (HB 160), is already having an impact on the public defenders' caseload. The State Public Defender Commission has given high priority in its FY 97 Budget Request for additional resources to meet the challenges of new "Tough on Crime" legislation. Also, Missouri's Public Defender System is currently using a very dated Burroughs Unisys CTOS word processing system. This 1985 technology is simply insufficient for today's needs and not compatible with the emerging State Courts Automation System. In order to improve efficiency and to achieve compatibility, Missouri's Public Defender Commission has made an FY 97 Budget Request for personal computers for all public defenders and staff.

Finally, in order to reach their maximum potential for effectiveness and efficiency, the experienced, well-equipped public defender and staff must have adequate, efficient office space. Currently, in accordance with RSMo 600.040, office space for local public defender offices is provided by the counties. This space is often inadequate to provide public defenders and staff with functional work environments. With this in mind, the State Public Defender Commission has proposed a revision to RSMo 600.040 which would make the obligation of providing office space for state public defenders a state obligation, rather than county obligation.

Although Missouri's Public Defender System is meeting the historical challenge of retaining experienced attorneys, there is room for improvement. With funding to implement new legislation, take advantage of new technology and provide its attorneys and staff adequate office space, this Department will continue to improve and meet the challenges ahead.

The Judicial Resources Commission supports the Public Defender's office in its budget request for personal computers for all public defenders and staff. The Commission supports the Public Defender's Office in its commitment to obtain adequate, functional work space for all staff.

JURY MANAGEMENT

Courts continue to experience difficulty assembling jury pools and the public continues to regard jury service as too burdensome. Improving juror compensation, providing better accommodations and making jury duty a more positive experience remain important goals. Alternatively, imposing stricter penalties for failure to appear when called for jury duty may be one way of increasing the size of pools. OSCA has begun a pilot project to implement Recommended Jury Standards, and the Missouri Advisory Commission on the Organization of the Judicial Department (frequently referred to as the "governor's commission") has been studying this issue.

The Commission recommends that the general assembly consider legislation which improves the compensation, protection, and experience of citizens asked to perform service as jurors.

JUVENILE PROGRAMS

Juvenile programs and the growth in juvenile crime continue to increase the workload and responsibilities of the courts and the Office of State Courts Administrator. To date, nine family court commissioners have been appointed and eight circuits have created a family court. The federally funded Family and Juvenile Court Specialist position in OSCA acts as a liaison between the office and the newly established family courts and traditional juvenile courts. The position is also responsible for creating standardized procedures for juvenile courts, creating model local court rules, and developing standardized forms for the family courts. Another federally funded position in the office is responsible for assessing and improving, if necessary, the manner in which juvenile courts handle child abuse and neglect cases that result in foster care or adoption.

HB 174, enacted in 1995, gives OSCA a mandate to become more actively involved in the administration of the family and juvenile courts. The legislation states that the office will develop performance standards for juvenile courts, orientation and continuing education standards for juvenile court personnel, service evaluation and outcome data, a standardized juvenile offender assessment form, and intake guidelines for detention including length-of-stay guidelines. One of the more challenging provisions requires OSCA and the Departments of Social Services, Mental Health and Health to coordinate their information systems to allow for tracking of individual children by the juvenile court and those departments. The legislation also creates the "Juvenile Court Personnel Advisory Commission" to analyze, among other things, whether creation and funding of a uniform personnel system for the juvenile courts is needed. OSCA has included in its budget request for FY97 a decision item for two professional and two clerical positions to perform the tasks mandated by this legislation.

The Commission recommends that the general assembly provide sufficient funding to fully implement the provisions of the juvenile crime bill.

MUNICIPAL COURTS

Municipal courts handle municipal ordinance violations. Section 479.020 RSMo provides that "Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges...." (Where a municipal judge has not been appointed or elected, associate circuit judges hear municipal cases.) Most municipal court judges are appointed; those in Kansas City are appointed under the non-partisan court plan. In municipalities with a population under 7,500, municipal judges are not required to be attorneys. At present, about 25% of the 336 municipal judges are non-lawyers. Many municipal courts operate relatively autonomously. While the presiding judge of the circuit has superintending authority, in fact many courts are unsupervised until a problem develops. Because the municipal courts are the only courts that many citizens ever have contact with, the Commission is concerned that they meet the high standards of the rest of the judiciary.

The Commission recommends that increased attention be directed toward our municipal courts. Specifically, we recommend that the training, standards, and education of the municipal courts be studied. Any recommendations coming out of this process should be jointly addressed by the judicial, executive and legislative branches.

CASE PROCESSING TIME STANDARDS

Judges continued to make progress toward meeting the time standards established by Administrative Rule 17. The rules and procedures that courts have adopted since July 1, 1993, when the rule became effective, are having a significant impact on cases filed since that date. Excluding all cases filed prior to the implementation of the time standards, the statistics document that, statewide, seven standards in four case types have been achieved. In circuit civil cases, the time standards in all three time frames were met. In domestic relations and associate civil the standard for one year was met. In felony complaint cases, the standards for three months and five months were achieved.

A committee to monitor the efficacy of the Case Processing Standards, Administrative Rule 17, was appointed by the Supreme Court on March 21, 1995. The committee is charged with the responsibility of monitoring statewide compliance, recommending changes in the rule, developing strategies to encourage and enhance compliance with the rule, developing policies regarding release of time standards statistics, and recommending education topics or programs to promote compliance with the rule.

Hearings will be held in 1996 to receive comments on the impact of the Rule, and to develop recommendations for changes, if necessary.

No recommendation required.

COURTHOUSE FACILITIES

Several counties continued construction or renovation projects during CY 1995: a new courthouse in Greene County is scheduled for completion January 1996; Camden County voters approved a bond for construction of a new judicial building; Laclede County is in the process of planning a new judicial building; the 26th circuit has begun construction on a new juvenile center; the clerk's office in Jefferson County has acquired the old jail facility and is planning some reconstruction; Lincoln County is in the process of reconstruction; Caldwell County is evaluating interior renovation of the courthouse; Warren County is building a new courthouse; and Callaway County continued renovation to comply with ADA. In addition, the Office of State Courts Administrator is being consolidated in one location.

While some progress has been made in individual courthouses around the state, in general courts continue to lack facilities to accommodate senior and transferred judges, lack jury facilities, and lack adequate clerical work space. Wiring in many old courthouses is inadequate to handle the demands of computer hardware; this problem will become more acute as statewide court automation progresses. Many courts continue to struggle to meet the demands of the Americans with Disabilities Act.

Responding to growing concerns regarding courthouse security, the Court Security Committee was formed in October, 1995. Free and open access to our judicial system is a cherished tradition, but without adequate security we cannot fulfill our promise of access, impartiality, and the right to a fair trial. Effective courthouse security requires structural elements, security devices, proper security staffing, and proper security policies and procedures. However, providing these elements requires funding that is non-existent in many of Missouri's poorer counties.

One solution to all of these problems may be the creation of Regional Justice Centers. By pooling their physical and financial resources, counties in a geographic area could more easily provide the type of facilities required for a modern judicial system.

The Committee recommends that the issue of Regional Justice Centers be addressed by the legislature, the counties, and the courts.

CIRCUIT CLERKS

While discussing clerical staff resources, the issue of elected versus appointed circuit clerks arose. This topic was also included in the charge to the "governor's commission," and has been discussed by various groups in previous years. The Judicial Resources Commission members agree that the function of the office of circuit clerk has changed dramatically in recent years. Legislation and court rules have added additional administrative responsibilities; clerks collect and disburse large amounts of money; they have an active role in case processing activities; they are responsible for assisting in thousands of pro se filings; and they are responsible for supervising growing numbers of employees. All of these changes have occurred without changes in the statutory qualifications for circuit clerk.

The Commission recommends that this position be reevaluated as the professional position it has become, and recommends that appointed circuit clerks should be phased-in as vacancies occur. Appointment will insure that the circuit clerks possess the highest qualifications for this important office, and will assure a close working relationship between judges and the office of circuit clerk.

ELECTRONIC COURTS/2004

In 1994, SB 420 created the statewide court automation project, funded by an earmarked court cost and controlled by a statutory committee. Primary goals of the automation project, named Electronic Courts/2004, are to provide better service through increased efficiency and productivity, to increase public access to the courts, and to ensure the highest level of justice for the people of Missouri. Access to information will be improved, resulting in better scheduling and monitoring and more timely disposition of cases. Costs to litigants will be reduced when attorneys have the means to file papers, inquire into the status of their cases, and do legal research electronically.

On September 20, 1995, Chief Justice John Holstein announced the award of the Electronic Courts/2004 general systems contract to Andersen Consulting, Kansas City, Missouri. With the award of this contract, the critical work of developing the specific design and future information systems structure of the Missouri Judicial Department began. The contractor will perform evaluations of the present levels of court automation in all Missouri counties. From that, and meetings with court staff, Andersen will develop the preliminary designs for integrating court functions and connecting courts together. After the design is approved by the automation committee, Andersen will begin to prepare the present local area networks for connection into a Statewide Judicial Information Network. In all, the design phase will take the project through November 1996.

No recommendation required.

COURT COSTS AND FINES

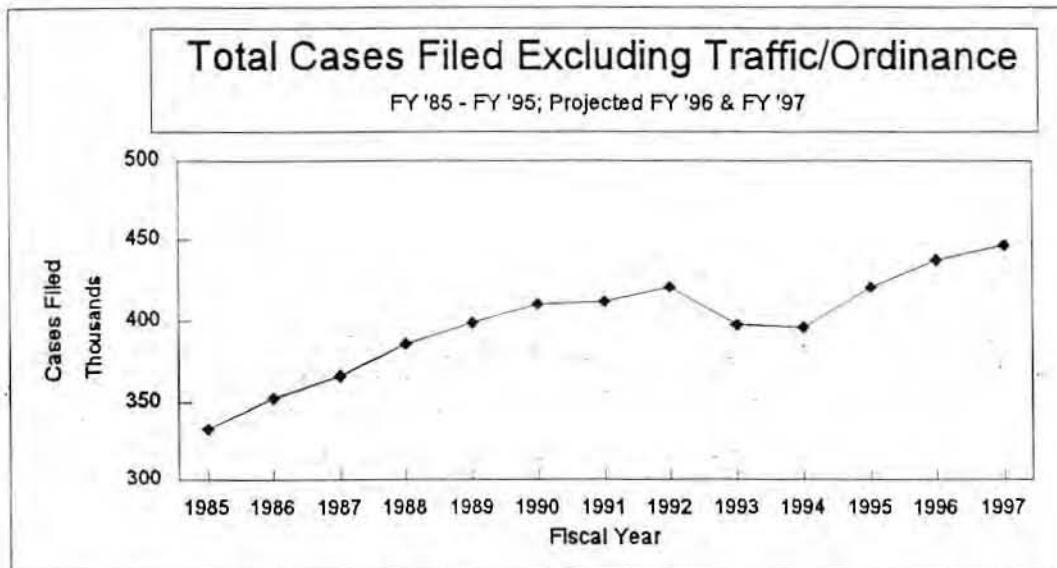
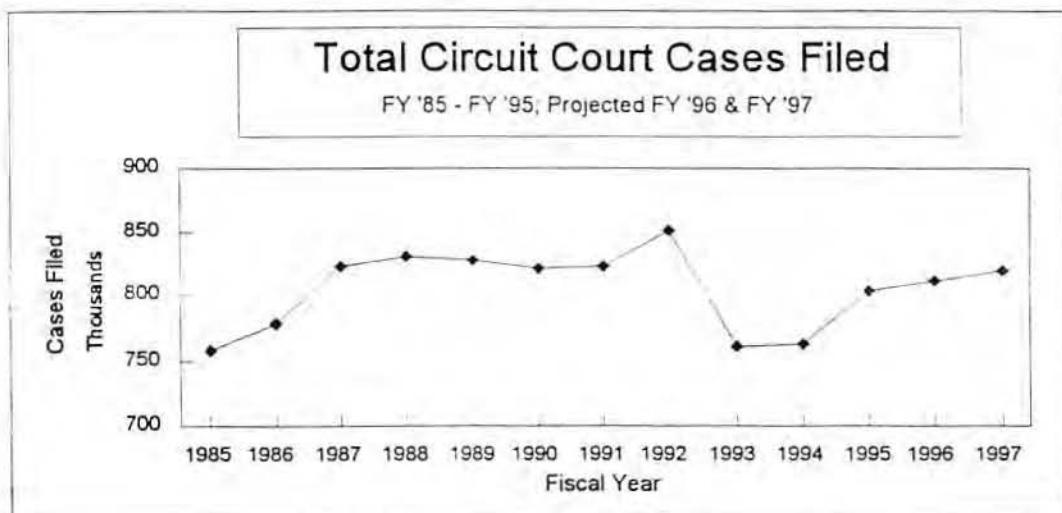
One factor that threatens to complicate the process of statewide court automation is the enormous complexity of the collection and disbursement of court costs and fines. This topic was included in the charge to the "governor's commission" and the commission is expected to make a recommendation.

The Commission recommends that the collection and disbursement of court costs and fines be simplified to reduce workload on court clerks and to facilitate automation.

REPORT OF THE COMMISSION ON JUDICIAL RESOURCES

DECEMBER 1995

OVERALL CASELOAD GROWTH



The creation of the St. Louis County traffic court and the volatility of the high-volume state traffic caseload can be seen in the comparison of total case filings with and without traffic. Legislation shifted about 55,000 county ordinance cases to a new St. Louis County traffic court in 1993, and state traffic case volume was down in FY 93 and FY 94.

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DECEMBER 1995

STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENTS STATISTICS
FY 1995

Graph 1
Missouri Circuit Court
Cases Filed and Disposed
FY 1995

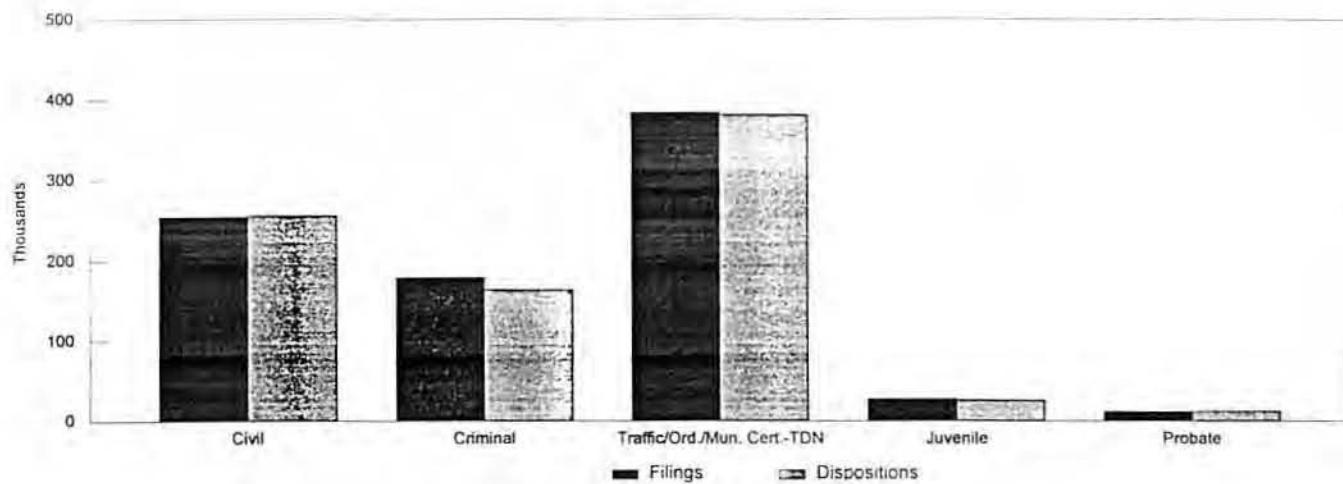


Table 1
Missouri Circuit Court
Cases Filed and Disposed by Case Type
FY 1995

Case Type	Filed	Disposed	*Disposition to Filing Ratio
Civil	254,593	256,172	1.01
Criminal	179,693	164,209	0.91
Traffic/Ordinance/ Municipal Cert.-TDN	384,260	381,475	0.99
Juvenile	27,596	26,119	0.95
Probate	11,956	12,154	1.02
Total	858,098	840,129	0.98

* This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

Table 2
Missouri Circuit Court
Cases Disposed by Manner of Disposition
FY 1995

Case Type	With Trial			Without Trial			Total
	Jury	Court	Uncontested	Plea	Dismissed	*Other	
Civil	941	44243	111294	n/a	94580	5114	256172
Criminal	953	1732	n/a	86432	40647	29617	159381
Traffic/Ord /Municipal Cert./TDN	44	8157	n/a	343670	33127	1305	386303
Total	1938	54132	111294	430102	168354	36036	801856

Note: Other includes such manners of disposition as change of venue, certification and bind over of felony preliminary cases

Table 3
Missouri Circuit Court
Judge Transfers/Assignments
FY 1995

	No. of Days	No. of Individual Case Assignments	*Total Civil/ Criminal Cases Disposed
Transfers of Associate/ Circuit Judges	1621	1627	21749
Senior Judge Assignments	4107	110	6267

Note: Transfers/assignments are made for either specific periods of time or to handle individual cases. Numerous cases may be heard in a single period-of-time assignment.

* Not available for traffic, probate, nor juvenile case types.

CASE PROCESSING TIME STANDARDS						
	ACTUAL PERFORMANCE STATEWIDE			STANDARD FY95	ANALYSIS EXCLUDING CASES FILED BEFORE JULY 1, 1993	
	FY93	FY94	FY95		STATEWIDE ACTUAL	# OF CIRCUITS MEETING STANDARDS
	(a)	(b)	(c)		(d)	(f)
Circuit Civil						
In 12 mos	54%	57%	59%	80%	86%	39
In 18 mos	68%	69%	69%	90%	97%	45
In 24 mos	78%	79%	77%	95%	N/A	45
Domestic Relations						
In 4 mos	58%	59%	66%	80%	71%	3
In 8 mos	72%	73%	81%	90%	87%	7
In 12 mos	80%	82%	89%	95%	95%	21
Associate Civil						
In 4 mos	53%	65%	69%	80%	73%	21
In 6 mos	60%	74%	79%	90%	84%	21
In 12 mos	71%	86%	91%	95%	97%	37
Summary Civil*						
In 2 mos	69%	73%	74%	80%	77%	16
In 3 mos	77%	82%	84%	90%	86%	12
Felony Complaint						
In 2 mos	52%	60%	63%	75%	65%	8
In 3 mos	65%	74%	77%	80%	80%	20
In 5 mos	79%	86%	89%	90%	92%	28
Circuit Felony						
In 4 mos	57%	56%	63%	80%	66%	13
In 8 mos	80%	80%	84%	95%	87%	13
In 12 mos	90%	91%	92%	98%	96%	21
Misdemeanor/Municipal Certified/Trial de Novo						
In 3 mos	53%	60%	66%	80%	69%	10
In 4 mos	62%	70%	75%	95%	79%	0
In 6 mos	73%	80%	85%	98%	90%	0

* Summary Civil includes hearings to reinstate a driver's license following refusal to submit to a chemical test for blood alcohol content; limited (hardship) driving; landlord/tenant actions; replevin; and small claims cases.

	AGE OF CASES AT DISPOSITION		
	Average Age in Days		% of Decrease
	FY 94	FY 95	
Circuit Felony	153	150	2%
Felony complaint	148	110	26%
Misdemeanor	232	150	35%
Circuit Civil	466	510	-9%
Domestic Relations	215	150	30%
Associate Civil	203	144	29%
Summary Civil	111	87	22%